

### REMARKS

This responds to the Office Action mailed on March 1, 2004. No claims are amended, cancelled, or added. As a result, claims 1 – 91 remain pending in this application.

### Information Disclosure Statement

The Office Action stated that the Information Disclosure Statement filed October 10, 2003 fails to comply with the provisions of 37 C.F.R. 1.97, 1.98 and MPEP §609 because the literature publication (Vitatron Medical Harmony) does not contain a date of publication. However, Applicant has already received (with the Office Action mailed on March 2, 2001) an Form 1449 initialed by the Examiner on February 28, 2001 indicating that this reference has been already been considered by the Examiner. Moreover, although the IDS stated that the exact date of this publication was unknown, it did note that it was cited in later publications on September 11, 1991 and September 5, 1990. Accordingly, Applicant respectfully submits that this literature publication has already been considered as prior art by the Examiner during the examination of the present patent application.

### Requests For Information

In the Office Action, the Examiner requested under 37 C.F.R. 1.105, information relating to the IDS publication "Pacemaker System Guide for PUSLAR MAX II; Multiprogrammable Pacemakers." More particularly, the Examiner requested the complete document. However, Applicant is submitting an Affidavit under 37 C.F.R. 1.132 to establish that the portions of that document that relate to VRR were derived from Applicant—Applicant does not admit that this document constitutes prior art against the present patent application. Therefore, Applicant respectfully submits that this Affidavit renders the Examiner's request for the complete document moot. Accordingly, Applicant respectfully requests that this particular Request for Information be withdrawn.

In the Office Action, the Examiner also requested that the "attorney/agent and inventors submit any non-patent literature, published application, or patent (U.S. or foreign) that relates to

Considered  
9/19/04